

Honorable Mary Jo Heston
Misc. Proceeding
Hearing Date: 02/18/2021
Hearing Time: 9:00 a.m.
Location: Tacoma, WA
Response Date: 02/11/2021

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF WASHINGTON**

UNITED STATES TRUSTEE

Plaintiff

v.

THOMAS MCAVITY, and NORTHWEST
DEBT RELIEF LAW FIRM,

Defendants

Misc. P. No. 20-00400-MJH

**MOTION BY THE UNITED STATES
TRUSTEE FOR ORDER COMPELLING
COMPLIANCE WITH DISCOVERY**

Gregory M. Garvin, Acting United States Trustee for Region 18 (the “United States Trustee”), by and through his attorney, Matthew J.P. Johnson, hereby moves the Court for an order compelling the above captioned Defendants (the “Defendants”) to respond to discovery issued pursuant to Fed. R. Civ. P. 33 and 34, as incorporated by Fed. R. Bankr. P. 7033 and 7034. In support of this Motion, the United States Trustee represents and alleges as follows:

I. FACTS

Plaintiff the United States Trustee filed this Miscellaneous Proceeding against Thomas McAvity and Northwest Debt Relief Law Firm on June 8, 2020. On October 27, 2020, the United States Trustee served the Defendant, via electronic email on his attorney, Daniel Garrison, the

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Office of the United States Trustee
700 Stewart St., Suite 5103
Seattle, WA 98101-1271
Phone: 206-553-2000,
Fax: 206-553-2566

1 United States Trustee's First Set of Interrogatories under Fed. R. Civ. P. 33 as made applicable
2 by Fed. R. Bankr. P. 7033, and Requests for Production under Fed. R. Civ. P. 34, as made
3 applicable by Fed. R. Bankr. P. 7034. On the same date, Defendants sent an email to the United
4 States Trustee requesting that the deadline for production be moved to December 2, 2020, because
5 thirty-days from the date of service was November 26, 2020, which was the Thanksgiving Holiday.
6 The United States Trustee responded on the same date and agreed to the extension.

7
8 Defendants again emailed the United States Trustee on November 25, 2020, asking for a
9 time to confer because Defendants did not feel they would be able to comply with the regular 30-
10 day discovery timeline. At the conclusion of that discussion, Defendants and the United States
11 Trustee agreed to set over the trial date to allow for additional time for the Defendants to complete
12 the production of Discovery.

13 The United States Trustee emailed Defendants on December 7, 2020, with a list of new
14 potential trial dates. The United States Trustee never received a response from the Defendants, so
15 a follow-up email was sent on December 17, 2020, inquiring as to how much additional time
16 Defendants required for production and which trial date would work best for the Defendants.
17 Defendants replied on December 21, 2020, that they would like until January 15, 2021, to complete
18 the production.

19 The Defendants did not produce any discovery on January 15, 2021, and no discovery has
20 been produced through the date of this Motion.
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1 **II. ARGUMENT AND AUTHORITY**

2 The United States Trustee is requesting that this Court issue an order Compelling
3 Defendants to answer the United States Trustee’s Interrogatories and Requests for Production. “A
4 party seeking discovery may move for an order compelling an answer, designation, production, or
5 inspection...if a party fails to answer an interrogatory submitted under Rule 33; or a party fails to
6 produce documents...as requested under Rule 34.” Fed. R. Civ. P 37 as made applicable by Fed.
7 R. Bankr. P. 7037. As noted above, the United States Trustee served the Defendant, the United
8 States Trustee’s First Set of Interrogatories under Fed. R. Civ. P 33 as made applicable by Fed. R.
9 Bankr. P. 7033, and Requests for Production under Fed. R. Civ. P 34, as made applicable by Fed.
10 R. Bankr. P. 7034 on October 27, 2020.

11
12 The Defendants are allowed thirty-days to respond to the Interrogatories pursuant to Fed.
13 R. Civ. P 33(b)(2), and they are similarly allowed thirty-days to respond to the Requests for
14 Production under Fed. R. Civ. P 34(b)(2)(A). As of the date of this motion, Defendants have been
15 allowed approximately 84 days.

16 The United States Trustee has already met and conferred with the Defendants several times,
17 and each time allowed additional time to respond to the discovery requests. The Defendants did
18 not comply with the latest deadline or otherwise attempt to resolve the issue with the United States
19 Trustee. Therefore, there should be no further need to meet and confer and the Court should order
20 that the Defendants comply with the discovery requests.

21
22 Wherefore, the United States Trustee requests that the Court enter an Order Directing the
23 Defendants to Comply with Discovery.

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1 DATED this Wednesday, January 20, 2021,

2 Respectfully submitted,

3 Gregory M. Garvin
4 Acting U.S. Trustee for Region 18

5 /s/ Matthew J.P. Johnson
6 Matthew J.P. Johnson, WSBA #40476
7 Attorney for the United States Trustee
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